

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12549 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

N I MEHTA

Versus

STATE OF GUJARAT

Appearance:

MR S TRIPATHY for Petitioner

Mr. V. B. Gharaniya, AGP, for respondent No. 1

SERVED for Respondent No. 2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 08/04/96

ORAL JUDGEMENT

The grievance of the petitioner is that the respondent authorities have instead of giving the deemed date of his promotion as Joint Commissioner of Industries with effect from 22.3.1982, being the date from which his immediate junior was promoted, given him a wrong date of deemed promotion of 4.4.1985 putting him to consequential

loss.

Admittedly, the petitioner had succeeded in his earlier petition Special Civil Application No. 2457 of 1980 in which this Court (Coram: R.C. Mankad, J) on 14.10.1987 gave a direction that the petitioner should be promoted to the post of Industries Officer with effect from the date on which his immediate junior Mr. V.M. Parikh was promoted. A further direction was given to reconsider the case of the petitioner for promotion to the higher post of Assistant Commissioner of Industries and Dy. Commissioner of Industries on the basis of his deemed date of his promotion as Industries Officer. It was also directed that the petitioner should be considered for further promotion to the post of Joint Commissioner of Industries on the basis of his deemed dates of promotion to the post of Assistant Commissioner of Industries and Deputy Commissioner of Industries. The directions were required to be carried out on or before January 31, 1988 or three months from the date of receipt of writ of this court. The petitioner had to move the Court by taking out Misc. Civil Application No. 1049 of 1988 for contempt action and thereafter only deemed dates were given to the petitioner for promotion to the post of Assistant Commissioner of Industries and Deputy Commissioner of Industries from 1.3.1975 and 1.5.1978, respectively. The contempt petition came to be disposed of with a direction that the petitioner should make a representation to the concerned authority for his deemed date in the post of Joint Commissioner of Industries and the petitioner's claim will be scrutinised in context of the date of promotion given to his immediate junior Mr. Joshi. Accordingly, the petitioner made a representation on 1.9.1992 and thereafter again on 24.5.1993. In the representation made on 24.5.1993 the petitioner has claimed that Mr. H.M. Joshi was junior to him in the cadre of Deputy Commissioner of Industries on the basis of deemed date which was granted to the petitioner i.e. 1.5.1978. The concerned authorities have not considered the grounds raised by the petitioner nor have they applied their mind to the decision of this Court in Special Civil Application No. 2457 of 1980 decided on 14.10.1987 for the purpose of giving deemed date of promotion to the petitioner as Joint Commissioner of Industries. It is therefore directed that the respondent No. 1 will consider the representation of the petitioner dated 24.5.1993 and his previous representation dated 1.9.1992 and decide the question of his deemed date of promotion in the cadre of Joint Commissioner of Industries and make a speaking order in the matter which may be communicated to the petitioner within two weeks after it is passed. The concerned authority will take a

decision within four weeks from the date on which the writ of this order is received by its office. Rule is made absolute accordingly with no order as to costs.

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